1 2 3 4 5 6	EDMUND G. BROWN JR., Attorney General of the State of California GLORIA A. BARRIOS Supervising Deputy Attorney General SCOTT J. HARRIS, State Bar No. 238437 Deputy Attorney General 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2554 Facsimile: (213) 897-2804 Attorneys for Complainant	
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8 9	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10		0010-48
11	In the Matter of the Accusation Against:	Case No. 2010-48
12	PAUL CARMELINO PUNZALAN, a.k.a. PAUL CARMELINO ALCUAZ	ACCUSATION
13	PUNZALAN, a.k.a. PAUL PUNZALAN	
14	8566 Hyacinth Street Rancho Cucamonga, CA 91730	
15	Registered Nurse License No. 651694	
16	Respondent.	
17		
18	Complainant alleges:	
19	<u>PARTIES</u>	
20	1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation solely	
21	in her official capacity as the Interim Executive Officer of the Board of Registered Nursing	
22	(Board), Department of Consumer Affairs.	
23	2. On or about January 28, 2005, the Board issued Registered Nurse License	
24	Number 651694 to Paul Carmelino Punzalan, also known as Paul Carmelino Alcuaz Punzalan	
25	and Paul Punzalan (Respondent). Respondent's registered nurse license was in full force and	
26	effect at all times relevant to the charges brought herein and will expire on April 30, 2010, unless	
27	renewed.	
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### STATUTORY/REGULATORY PROVISIONS

- 3. Business and Professions Code (Code) section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
  - 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

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#### 7. Code section 4022 states: 1 "Dangerous drug" or "dangerous device" means any drug or device unsafe 2 for self-use in humans or animals, and includes the following: 3 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import. 4 (b) Any device that bears the statement: "Caution: federal law restricts this 5 device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to 6 use or order use of the device. 7 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006. 8 California Code of Regulations, title 16, section ("Regulation") 1442 8. 9 10 states: As used in Section 2761 of the code, 'gross negligence' includes an 11 extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an 12 extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation 13 which the nurse knew, or should have known, could have jeopardized the client's 14 health or life. 9. Regulation 1443 states: 15 As used in Section 2761 of the code, 'incompetence' means the lack of 16 possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as 17 described in Section 1443.5. 18 19 COST RECOVERY Code section 125.3 provides, in pertinent part, that the Board may request 20 10. the administrative law judge to direct a licentiate found to have committed a violation or 21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation 22 23 and enforcement of the case. 24 DANGEROUS DRUGS AT ISSUE Diprivan is a dangerous drug within the meaning of Code section 4022 in 25 11. 26 that it is available by prescription only. Phenobarbital is a dangerous drug within the meaning of Code section 27 12.

4022 in that it is available by prescription only.

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### FIRST CAUSE FOR DISCIPLINE

# (Gross Negligence)

- 13. At all times herein mentioned, Respondent was employed as a registered nurse in the Intensive Care Unit (ICU) at San Antonio Community Hospital (SACH) in Upland, California.
- 14. On or about June 20, 2007, Patient A<sup>1</sup> was admitted to the emergency department of SACH seizing and comatose. The patient was diagnosed with a brain stem hemorrhage secondary to hypertensive crisis and was admitted to the ICU. Respondent's coworker, A.A., with the assistance of Respondent, was assigned to the care of the patient.
- 15. On or about June 25, 2007, Patient B was admitted to the ICU after having presented to the emergency department of SACH on June 24, 2007, with seizure activity. Respondent's co-worker, H.G., was assigned to the care of the patient with Respondent as her preceptor.
- 16. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about June 20, 2007, and June 25, 2007, while on duty as a registered nurse in the ICU at SACH, Respondent was guilty of gross negligence, within the meaning of Regulation 1442, as follows:
- a. Respondent administered a bolus injection of Diprivan to Patient A when it was against hospital policy for a registered nurse to administer Diprivan by bolus injection.
- b. Respondent administered Diprivan to Patient A by bolus injection without a physician's order to administer the drug by bolus injection.
- c. Respondent administered Phenobarbital 390 mg to Patient B without a physician's order.

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<sup>1.</sup> Patient and Respondent's co-workers names are omitted to protect confidentiality, and will be revealed pursuant to a proper Request for Discovery. "Patient A" is otherwise known as patient M.K.; and, "Patient B" is otherwise known as Patient D.B.

## SECOND CAUSE FOR DISCIPLINE 1 (Incompetence) 2 Respondent is subject to disciplinary action pursuant to Code section 3 17. 2761, subdivision (a)(1), in that on or about June 20, 2007, and June 25, 2007, while on duty as a 4 registered nurse in the ICU at SACH, Respondent was guilty of incompetence, within the 5 meaning of Regulation 1443, as follows: Complainant incorporates by reference as though fully 6 set forth herein the allegations contained in subparagraphs 16(a) through (c) above. 7 THIRD CAUSE FOR DISCIPLINE 8 (Unprofessional Conduct) 9 Respondent is subject to disciplinary action pursuant to Code section 18. 10 2761, subdivision (a), in that on or about June 20, 2007, and June 25, 2007, while on duty as a 11 registered nurse in the ICU at SACH, Respondent committed acts constituting unprofessional 12 13 conduct, as follows: Complainant incorporates by reference as though fully set forth herein the 14 allegations contained in paragraphs 16 and 17, above. 15 Respondent falsified the hospital, patient, or other records pertaining to 16 b. Patient B when he wrote a physician's order for Phenobarbital 390 mg when no such order had 17 been given. 18 19 FOURTH CAUSE FOR DISCIPLINE (Administering/Prescribing Dangerous Drugs to Others) 20 19. Respondent's registered nurse license is subject to disciplinary action 21 pursuant to Code Section 2761, subdivision (a), on the grounds of unprofessional conduct, as 22 defined in Code section 2762, subdivision (a), as follows: 23 On or about June 20, 2007, Respondent administered the dangerous drug 24 Diprivan to Patient A by bolus injection without a physician's order directing Respondent to 25 administer the drug by bolus injection, as further set forth above in paragraph 16(b). 26 27 ///

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b. On or about June 25, 2007, Respondent prescribed the controlled 1 substance/dangerous drug Phenobarbital 390 mg to Patient B without lawful authority therefor, 2 3 as further set forth above in subparagraph 16(c). FIFTH CAUSE FOR DISCIPLINE 4 (False Entries in Hospital/Patient Records) 5 Respondent is subject to disciplinary action pursuant to Code section 20. 6 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 7 2762, subdivision (e), in that in or about June 25, 2007, while on duty as a registered nurse in the 8 ICU at SACH, Respondent falsified, or made grossly incorrect, grossly inconsistent, or 9 unintelligible entries in hospital, patient, or other records pertaining to the controlled substance 10 Phenobarbital, as follows: Complainant incorporates by reference as though fully set forth herein 11 the allegations contained in subparagraph 18(b) above. 12 **PRAYER** 13 WHEREFORE, Complainant requests that a hearing be held on the matters herein 14 alleged, and that following the hearing, the Board of Registered Nursing issue a decision: 15 Revoking or suspending Registered Nurse License Number 651694, issued 16 1. to Paul Carmelino Punzalan, also known as Paul Carmelino Alcuaz Punzalan and Paul Punzalan; 17 Ordering Paul Carmelino Punzalan, also known as Paul Carmelino Alcuaz 2. 18 Punzalan and Paul Punzalan, to pay the Board of Registered Nursing the reasonable costs of the 19 investigation and enforcement of this case, pursuant to Business and Professions Code section 20 21 125.3; and 22 /// 23 /// 24 /// 25 /// 26 /// 27 /// . 28

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1	3. Taking such other and further action as deemed necessary and proper
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3	DATED: 8/4/09
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5	Louise & Bailey
6	LOUISE R. BAILEY, M.Ed., RN Interim Executive Officer Board of Registered Nursing State of California
7	Board of Registered Nursing State of California
8	Complainant
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